

Ex. Doc. No. 40.

HOUSE OF REPRESENTATIVES.

PROPOSITIONS FOR PEACE.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

IN ANSWER

To the resolution of the House of Representatives of the 7th February, 1848, in relation to propositions from the Mexican authorities for a treaty of peace.

FEBRUARY 11, 1848.

Laid upon the table, and ordered to be printed.

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 7th instant, I transmit herewith a report from the Secretary of State.

No "communication has been received from Mexico, containing propositions from the Mexican authorities or commissioners for a treaty of peace," except the "counter projet" presented by the Mexican commissioners to the commissioner of the United States, on the 6th of September last, a copy of which, with the documents accompanying it, I communicated to the Senate of the United States on the 2d instant. A copy of my communication to the Senate, embracing this "projet," is herewith communicated.

JAMES K. POLK.

WASHINGTON, February 10, 1848.

DEPARTMENT OF STATE,
Washington, February 9, 1848.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 7th February, 1848, requesting the President to communicate to the House "whether any communication has been received from Mexico containing propositions from the Mexican authorities or commissioners for a treaty of peace," &c., respectfully reports that no such communication has been received. Nothing of such a character has ever been received at this department, except the "counter projet" for a treaty of peace, presented by the Mexican commissioners to the commissioner of the United States, on the 6th September last, and which was communicated by you to the Senate with your message of the 3d instant. A copy of this message, with the accompanying documents, is herewith furnished.

JAMES BUCHANAN.

To the PRESIDENT of the United States.

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TACUBAYA, August 25, 1847.

The undersigned, appointed commissioner of the United States of America to the United Mexican States, with full power to meet and confer with any person or persons having the like authority from the Mexican government, and with him or them to negotiate and conclude a lasting treaty of peace, friendship, and limits between the two republics, begs leave to invite the attention of his excellency the minister of relations of Mexico to the military convention establishing an armistice, concluded on the 23d and ratified on the 24th instant, and has the honor to state that he is prepared to meet the commissioner or commissioners on the part of

Mexico, and to request that an early day may be appointed for the meeting, at some place which may be convenient to both parties. The undersigned tenders to H. E. the minister of relations the assurance of his most distinguished consideration.

N. P. TRIST.

H. E. DON J. R. PACHECO, &c., &c., &c.

Mr. Pacheco to Mr. Trist.

[Translation.]

NATIONAL PALACE, *Mexico, August 26, 1847.*

The undersigned, minister of the interior and foreign relations, had the honor to receive and submit to his excellency the acting president of the republic the note in which Mr. Nicholas P. Trist, commissioner of the government of the United States, in consequence of the armistice concluded with the general-in-chief of the troops of that nation, made known, under date of yesterday, his readiness to treat with the commissioner or commissioners of this republic, respecting the propositions for peace which he is authorized to present; requesting that a day be promptly appointed for the meeting, at the place which may be judged convenient for both parties.

The undersigned has received orders from the most excellent president to inform Mr. Trist in reply, that he is already engaged in appointing, as speedily as possible, the commissioners to receive the propositions which Mr. Trist may have to make, and that they will repair at four o'clock in the evening of to-morrow to the village of Atzacaposalco, as an intermediate point between those occupied by the forces of the two nations; provided, that this selection be not considered inconvenient by Mr. Trist, to whom the undersigned offers the assurance of his distinguished consideration.

J. R. PACHECO.

NICHOLAS P. TRIST, Esq.,

Commissioner of the United States of America.

Mr. Trist to Mr. Pacheco.

TACUBAYA, *August 26, 1847.*

The undersigned, commissioner of the United States of America, has the honor to acknowledge the receipt of the note of this date, from H. E. Senor Pacheco, minister of relations of Mexico, acquainting him that, if no objection exist on his part to the place indicated, he will be met by commissioners on the part of Mexico, to-morrow at four o'clock of the afternoon, in the village of Atz-

caposalco, as being an intermediate point between those occupied by the respective forces of the two nations.

The undersigned has the honor to state in reply, that he accepts, with pleasure, this invitation, in the hope that this first meeting will promptly be followed by a satisfactory settlement of all differences between the sister republics.

He renews to Senor Pacheco the assurance of his distinguished consideration.

N. P. TRIST.

H. E. DON J. R. PACHECO,

Minister of Relations of the Mexican Republic.

Proposition submitted by Mr. Trist.

The United States of America and the United Mexican States, desirous of terminating the war which has unhappily subsisted between the two republics, and of restoring peace, friendship, and good understanding between them, have, for that purpose, appointed their respective plenipotentiaries, that is to say: the President of the United States has appointed Nicholas P. Trist, &c., &c., and ———, who, after a reciprocal communication of their respective full powers, have agreed upon the following articles:

ARTICLE 1. There shall be a firm and universal peace between the United States of America and the United Mexican States, and between their respective countries, territories, cities, towns, and people, without exception of places or persons. All hostilities, both by sea and land, shall definitively cease so soon as the ratifications of this treaty shall have been exchanged by the parties.

ARTICLE 2. All prisoners of war taken on either side, as well by land as by sea, shall be restored as soon as practicable after the exchange of the ratifications of this treaty. (Besides, it is agreed that if any Mexican citizen should be prisoners of the Cumanches, or of any tribes of Indians within the limits of the United States, the government of the United States will endeavor to obtain their return to their homes, according to the treaties existing with those Indians.)

ARTICLE 3. So soon as the present treaty shall have been duly ratified by the United Mexican States, this fact shall be made known with the least possible delay to the military and naval commanders of both parties, whereupon a suspension of hostilities shall take place, both by land and by sea, as well on the part of the military and naval forces of the United States, as on the part of those of the United Mexican States; and the said suspension of hostilities shall be inviolably observed on both sides. Immediately after the exchange of the ratifications of the present treaty all the forts, territories, places, and possessions whatsoever, taken by the United States from the United Mexican States during the war, except such as are embraced within the limits of the United States,

as defined by the fourth article of this treaty, shall be restored without delay, and without causing any destruction or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty. And, in like manner, all the forts, territories, places, and possessions whatsoever, taken by the United Mexican States from the United States during the war, and also all such forts, territories, places, and possessions embraced within the limits of the United States under the fourth article of this treaty, shall be restored, evacuated, and delivered over to the United States without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, from the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty.

ARTICLE 4. The boundary line between the two republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande; from thence up the middle of that river to the point where it strikes the southern line of New Mexico; thence westwardly along the southern boundary of New Mexico, to the southwestern corner of the same; thence northward along the western line of New Mexico, until it intersects the first branch of the river Gila, or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch; and thence in a direct line to the same, and down the middle of said branch and of the said river, until it empties into the Rio Colorado; thence down the middle of the Colorado and the middle of the Gulf of California, to the Pacific ocean.

ARTICLE 5. In consideration of the extension of the boundaries of the United States, as defined by the last preceding article, and by the stipulations which will appear in article No. 8, the United States abandon, forever, all claims against the United States of Mexico, on account of the expenses of the war; the United States agree to pay to the United Mexican States, at the city of Vera Cruz, the sum of ——— dollars, in five equal instalments, each of ——— dollars; the first instalment to be paid immediately after this treaty shall have been duly ratified by the government of the United Mexican States.

ARTICLE 6. As a further consideration [of article No. 4] for the extension of the boundaries of the United States, as defined by the fourth article of this treaty, the United States agree to assume and pay to the claimants all the instalments now due, or hereafter to become due, under the convention between the two republics, concluded at the city of Mexico on the 30th day of January, 1843, "further to provide for the payment of awards in favor of claimants under the convention between the United States and the Mexican republic, of the 11th April, 1839;" and the United States also agree to assume and pay, to an amount not exceeding three millions of dollars, all claims of citizens of the United States, not heretofore decided against the government of the United Mexican States, which may have arisen previous to the 13th of May, 1846, and shall be found to be justly due, by a board of commissioners,

to be established by the government of the United States, whose awards shall be final and conclusive; provided that, in deciding upon the validity of these claims, the board shall be guided and governed by the principles and rules of decision prescribed by the first and fifth articles of the unratified convention concluded at the city of Mexico on the 20th day of November, A. D. 1843; and in no case shall an award be made in favor of any claim not embraced by these principles and rules. And the United States do hereby forever discharge the United Mexican States from all liability for any of the said claims, whether the same shall be rejected or allowed by the said board of commissioners.

ARTICLE 7. If, in the opinion of the said board of commissioners, or of the claimants, any books, records, or documents in the possession or power of the government of the United Mexican States, shall be deemed necessary to the just decision of any of said claims, the commissioners, or the claimants through them, shall, within such a period as Congress may designate, make a demand in writing for the same, addressed to the Mexican minister for foreign affairs, to be transmitted by the Secretary of State of the United States; and the Mexican government engages, at the earliest possible moment after the receipt of such demand, to cause any of the said books, records, or documents in their possession or power, which shall be specified, to be transmitted to the said Secretary of State, who shall immediately deliver them over to the said board of commissioners: provided, that no such demand shall be made at the instance of any claimant, until the facts, which it is expected to prove by such books, records, or documents, shall first have been stated under oath or affirmation.

ARTICLE 8. The government of the United Mexican States hereby grant and guaranty, forever, to the government and citizens of the United States, the right to transport across the isthmus of Tehuantepec, from sea to sea, by any modes of communication now existing, whether by land or water, free of any toll or charges whatever, all and any articles, the growth, produce, or manufacture of the United States, or of any foreign country belonging to the said government or citizens; and also the right of free passage over the same to all citizens of the United States. And the government of the United Mexican States also grant and guaranty to the government and citizens of the United States the same right of passage for their merchandise and articles aforesaid, as well as for such citizens, over any railroad or canal which may hereafter be constructed across the said isthmus by the government of the United Mexican States, or by its authority, paying no more than fair and reasonable tolls for the same; and no higher tolls and charges shall be levied and collected upon any of the before mentioned articles and merchandise belonging to the government or citizens of the United States, or upon the persons of such citizens, for passing over the said railroad or canal, than shall be levied and collected upon like articles and merchandise belonging to the government or citizens of Mexico, being the growth, produce, and manufacture of Mexico, or of any foreign country, or upon the persons of such

citizens; and none of the said articles whatever, belonging to the government or citizens of the United States, thus passing in transit over the said isthmus, from sea to sea, either by the existing modes of communication, or over any railroad or canal which may hereafter be constructed, in either direction, for the purpose of being transported to any port of the United States, or of any foreign country, shall be liable to any import or export duty whatever. The two governments hereby engage, with as little delay as possible, mutually to agree upon such regulations as may be necessary to prevent fraud and smuggling in consequence of the right of passage thus granted and perpetually guarantied to the government and citizens of the United States.

ARTICLE 9. All goods, wares, or merchandise, which shall, during the war, have been imported into any of the ports or places of either party, whilst in the military occupation of the other, by the citizens of either, or by the citizens or subjects of any neutral power, shall be permitted to remain exempt from confiscation, or from any tax or duty upon the sale or exchange of the same, or upon the withdrawal of the said property from the country; and the owners thereof shall be permitted to sell and dispose of the said property in the same manner, in all respects whatever, as if it had been imported into the country in time of peace, and had paid the duties under the laws of either party, respectively.

ARTICLE 10. The treaty of amity, commerce, and navigation, concluded at the city of Mexico, on the 3d day of April, A. D. 1831, between the United States of America and the United Mexican States, and every article thereof, with the exception of the additional article, are hereby revived for the period of eight years from the day of the exchange of the ratifications of this treaty, with the same force and virtue as if they made part of the context of the same; it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

ARTICLE 11. This treaty shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the United Mexican States, with the previous approbation of their General Congress; and the ratifications shall be exchanged in the city of Washington, within six months from the date of the signature hereof, or sooner, if practicable.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty, and have hereunto affixed our seals.

Done in duplicate at the day of , A. D.
one thousand eight hundred and forty-seven.

[No. 15.—Confidential.]

*Mr. Trist to Mr. Buchanan.—Extracts.*HEAD-QUARTERS OF U. S. ARMY,
Tacubaya, September 4, 1847.

SIR: The conference between the Mexican commissioners and myself, on the 2d instant, resulted in my saying that if they would submit to me a formal proposition to establish as the boundary between the two republics the one defined in the accompanying paper, (Enclosure No. 1,) I would transmit it to Washington, and would propose to General Scott to consent to the continuation of the armistice until the answer of our government should be received, the calculation being that this would require from forty to forty-five days, sending expresses both to Tampico and Vera Cruz.

* * * * *

Should my offer be accepted, this will go by quadruplicate, two by Vera Cruz, and two by Tampico, under the security afforded by double passports.

I am, sir, very respectfully, your obedient servant,

N. P. TRIST.

Hon. JAMES BUCHANAN,
Secretary of State.

[Enclosure No. 1.]

The boundary line between the two republics shall commence at a point in the Gulf of Mexico, three leagues from land, opposite to the middle of the southernmost inlet into Corpus Christi bay; thence through the middle of said inlet, and through the middle of said bay, to the middle of the mouth of the river Nueces; thence up the middle of said river to the southernmost extremity of Yoke Lake or Laguna de las Yuntas, where the said river leaves the said lake, after running through the same; thence, by a line due west, to the middle of the Rio Puerco; and thence up the middle of said river to the parallel of latitude six geographical miles north of the fort at the Paso del Norte on the Rio Bravo; thence due west along the said parallel to the point where it intersects the western boundary of New Mexico; thence northwardly along the said boundary until it first intersects a branch of the river Gila; (or if it should not intersect any branch of that river, then to the point on the said boundary nearest to the first branch thereof, and from that point in a direct line to such branch;) thence down the middle of said branch, and of the said river Gila, until it empties into the Rio Colorado, and down or up the middle of the Colorado, as the case may require, to the thirty-third parallel of latitude; and thence due west along the said parallel into the Pacific ocean. And it is hereby agreed and stipulated, that the territory comprehended between the Rio Bravo and the above defined boundary,

from its commencement in the Gulf of Mexico up to the point where it crosses the said Rio Bravo, shall forever remain a neutral ground between the two republics, and shall not be settled upon by the citizens of either; no person shall be allowed hereafter to settle or establish himself within the said territory for any purpose, or under any pretext whatever; and all contraventions of this prohibition may be treated by the government of either republic in the way prescribed by its laws respecting persons establishing themselves, in defiance of its authority, within its own proper and exclusive territory.

The Mexican Commissioners to Mr. Trist.

[Translation.]

HOUSE OF ALFARA, ON THE CHAPULTEPEC CAUSEWAY,
September 6, 1847.

The undersigned, commissioned by the government of the Mexican republic to concert with your excellency an arrangement for peace, on placing in your hands the counter projet which they have framed conformably to the last instructions of their government, think proper to accompany it with the observations contained in this note, which will tend to place in a clearer light the pacific disposition of Mexico in the contest which unfortunately separates both countries. The 4th article of the projet which your excellency was pleased to deliver to us on the 27th of August last, and which has been the subject of our latter conferences, relates to the cession, on the part of Mexico, 1st, of the State of Texas; 2d, of the territory on this side of the limits of that State, extending to the left bank of the Bravo, and to the southern frontier of New Mexico; 3d, of all New Mexico; 4th, of the two Californias.

The existing war has been undertaken solely on account of the territory of the State of Texas, respecting which, the North American republic presents as its title the act of the said State by which it was annexed to the North American confederation, after having proclaimed its independence of Mexico. The Mexican republic offering (as we have informed your excellency) to consent, for a proper indemnification, to the pretensions of the government of Washington to the territory of Texas, the cause of the war has disappeared, and the war itself ought to cease, since there is no warrant for its continuance. To the other territories mentioned in the 4th article of your excellency's draught, no right has heretofore been asserted by the republic of North America, nor do we believe it possible for it to assert any. Consequently, it could not acquire them except by the right of conquest, or by the title which will result from the cession or sale which Mexico might now make. But as we are persuaded that the republic of Washington will not only absolutely repel, but will hold in abhorrence, the first of these

titles, and as, on the other hand, it would be a new thing, and contrary to every idea of justice, to make war upon a people for no other reason than because it refused to sell territory which its neighbor sought to buy, we expect, from the justice of the government and people of North America, that the ample modification which we have to propose to the cession of territory, (beyond that of the State of Texas,) contemplated by the said article 4, will not be a motive to persist in a war which the worthy general of the North American troops has justly styled as *unnatural*.

In our conferences, we have informed your excellency that Mexico cannot cede the belt which lies between the left bank of the Bravo and the right of the Nueces. The reason entertained for this, is not alone the full certainty that such territory never belonged to the State of Texas; nor is it founded on the great value, in the abstract, which is placed upon it. It is because that belt, together with the Bravo, forms the natural barrier for Mexico, both in a military and a commercial sense; and the barrier of no State ought to be sought, and no State can consent to abandon its barrier. But in order to remove all cause for trouble hereafter, the government of Mexico engages not to found new settlements, or establish colonies in the space between the two rivers; so that, remaining in its present uninhabited condition, it may serve as a safeguard equally to both republics. Pursuant to our instructions, the preservation of this territory is a condition *sine qua non* of peace. Sentiments of honor and delicacy, (which your excellency's noble character will know how worthily to estimate,) even more than a calculation of interests, prevent our government from consenting to the dismemberment of New Mexico. Upon this point we deem it superfluous to add anything to that which we had the honor to explain to you orally in our conferences.

The cession of Lower California, which would be of little advantage to the republic of North America, offers great embarrassments to Mexico, considering the position of that peninsula opposite to our coast of Sonora, from which it is separated by the narrow gulf of Cortez. Your excellency has appreciated our remarks on this point, and we have been gratified to see that you have yielded to them. The preservation of Lower California would be enough to make it indispensable to keep a part of Upper California; for, otherwise, that peninsula would be without any communication by land with the rest of the republic, which is always a great embarrassment, especially for a power like Mexico, which is not maritime. The grant which is offered by our government (for the proper equivalent) of that part of Upper California which extends from the 37th degree upwards, not only allows to the United States the acquisition of an excellent coast, of fertile lands, and also of untouched mines, but also presents to it the advantage of extending to that limit its Oregon possessions. The wisdom of the government at Washington, and the praiseworthy industry of the American people, will know how to draw rich fruits from the important acquisition which we now offer.

In the 8th article of your excellency's draught, the grant of a free passage across the isthmus of Tehuantepec to the South Sea is sought in favor of the North American citizens. We have orally explained to your excellency that some years since, the government of the republic granted to a private contractor a privilege, with reference to this object, which was soon transferred, with the sanction of the same government, to English subjects, of whose rights Mexico cannot dispose. Therefore, your excellency will not wonder that upon this point we do not accede to the desires of your government.

We have entered into this plain statement of the motives which the republic has for not agreeing to alienate all the territory asked of it beyond the State of Texas, because we desire that the North American government and people may be persuaded that our partial refusal does not proceed from feelings of aversion created by the antecedents in this war, or by the sufferings which it has inflicted upon Mexico, but rests upon considerations dictated by reason and justice, which would operate at any time with reference to the most friendly nation, although our relations of friendship with her might be of the closest character. The other changes which your excellency will find in our counter draught are of minor moment, and we believe that there will be no serious objection to them. The subject contained in the 12th article has before now been mentioned in your excellency's country. We flatter ourselves, from the integrity of your government, that it will not refuse to contract an engagement so conformable to honor, and that good harmony in which two neighboring people ought to live.

The peace between both countries will be established with greater solidity if a friendly power, (England,) which has so nobly offered its good offices to Mexico and the United States, in the present contest, will now offer to grant its guaranty for the faithful fulfilment of the treaty which may be concluded. The Mexican government understands that it would be very proper to solicit this guaranty.

Our government directs us to recommend to your excellency, that you will be pleased to communicate your decision upon the counter draught, which we have the honor to present to you, within three days.

The good and salutary work can, in our opinion, reach a happy end, if each of the contending parties resolves to abandon some of its original pretensions. This has always been the case; and no nation ever hesitated, at such a juncture, to make great sacrifices to extinguish the destructive flame of war. Mexico and the United States have special reasons thus to act. We must confess, not without a blush, that we are exhibiting to mankind the scandal of two Christian nations, of two republics, in the presence of all the monarchies, mutually doing to one another all the harm we can by disputes about boundaries, when we have an excess of land to people and to cultivate, in the beautiful hemisphere where Providence caused us to be born. We venture to commend these considera-

tions to your excellency, before you come to a definite decision upon our propositions.

We consequently do ourselves the honor to offer you our devotion and respect.

JOSE J. DE HERRERA,
BERNARDO CONTO,
IGNACIO MORA Y VILLAMIL,
MIGUEL ATRISTAIN.

To his Excellency DON NICHOLAS TRIST,
*Deputed with full powers by the government
of the United States to the government
of the Mexican republic.*

[Translation.]

COUNTER PROJECT.

1st. There shall be firm and universal peace between the United States of America and the Mexican republic, and their respective territories, cities, towns, and villages, not excepting persons or places.

2d. All the prisoners of war made on either side, whether by sea or land, shall be released immediately after the signing of the present treaty. It is also agreed, that if any Mexicans are now captives in the power of any Indian tribe within the limits ceded by the 4th article to the United States, the government of said United States shall exact their release, and that they be restored to liberty and to their homes in Mexico.

3d. Immediately after the exchange of the ratifications of this treaty, all the forts, places, and possessions, which may have been taken or occupied during this present war, within the limits fixed by the 4th article for this republic, shall be restored to the Mexican republic. In like manner shall be restored the artillery, arms, and ammunition that were in the castles and strongholds when they fell into the power of the troops of the United States. With respect to the artillery taken outside of said castles and fortified places, that which is still in the power of the United States troops, shall be returned to Mexico at the date of the signing of the present treaty.

4th. The dividing line between the two republics shall commence in the gulf of Mexico; three leagues from land, opposite the southern mouth of the bay of Corpus Christi, shall run in a straight line from within the said bay to the mouth of the river Nueces; thence through the middle of that river in all its course to its source; from the source of the river Nueces shall be traced a straight line until it meets the present frontier of New Mexico, on the east southeast side; it shall then follow the present boundary of New Mexico on the east, north, and west, until this last touches the 37th degree; which will serve as limit for both republics, from the point in which it touches the said frontier of the west of New Mexico to the Pa-

cific ocean. The government of Mexico promises not to found any new settlements or establish colonies in the tract of land which remains between the river Nueces and the Bravo del Norte.

5th. As a just compensation for the extension of their old limits, which the United States acquire by the previous article, the government of said United States is bound to pay over to the republic of Mexico the sum of _____, which shall be placed in the city of Mexico, at the disposal of the said government of the Mexican republic, in the act of exchanging the ratification of this treaty.

6th. The government of the United States is further bound to take upon itself, and satisfy fully, the claimants to all the instalments [cantidades] which are due up to this time, and may become due in future, by reason of the claims now liquidated, and decided against the Mexican republic, agreeably to the conventions arranged between the two republics on the 11th of April, 1839, and 30th of January, 1843, in such manner that the Mexican republic shall have absolutely no further payment to make on account of the said claims.

7th. The government of the United States is also bound to take upon itself, and pay fully, all the claims of its own citizens, not yet decided, against the Mexican republic, whatever may be the title or motive from which they may proceed, or on which they are founded; so that, from the date of the exchange of the ratifications of the present treaty, the accounts of every kind that exist, or may be supposed to exist, between the government of Mexico and the citizens of the United States, remain settled definitively and forever.

8th. In order that the government of the United States may be able to satisfy, in observance of the previous article, the claims not yet decided of its citizens against the Mexican republic, there shall be established by the government of the said United States, a tribunal of commissioners, whose decisions shall be conclusive and definitive; provided, that on deciding upon the validity of any demand, it may be adjusted by the principles and rules which were established in the articles 1st and 5th of the convention, (not ratified,) which was concluded in Mexico on the 20th of November, 1843; and in no case shall a decision be given in favor of any claim which is not adjusted pursuant to the aforesaid rules. If the tribunal of commissioners deem it necessary for the just decision of any demand to examine books, registers, or documents, which are in the power of the Mexican government, the government of the United States shall make application for them, and either the originals or faithful copies shall be sent to it for the purpose of being, as they may, communicated to the said tribunal; it being understood that there shall not be made by the government of the United States any application for the said books, registers, or documents, until it shall be specified in each case under oath, or with judicial sanction on the part of the claimant in the case, the facts sought to be proved, with such books, registers, or documents.

9th. All the temples, houses, and edifices, dedicated to the rites or exercises of the Catholic worship, in territories belonging hitherto to the Mexican republic, and which, by the 4th article of this treaty, will be within the limits of the United States, shall remain

dedicated to the same rites and exercises of the Catholic religion, without any change, and under the special protection of the laws. The same shall be the case with all goods, moveable and immovable, which within the said territories are dedicated to the support of the Catholic worship, or the support of schools, hospitals, and other establishments of charity or benevolence. Finally, the relations and communications of the Catholics, living in the same territories with their respective ecclesiastical authorities, shall be frank, free, and without any embarrassment, even though the said authorities have their residence within the limits which remain subject to the Mexican republic in this treaty; nor shall there be any new demarcation of ecclesiastical districts, except conformably to the laws of the Catholic church.

10th. The Mexicans residing in territory heretofore belonging to Mexico, and now in the limits of the United States, may at any time return to the Mexican republic, preserving in the said territory the property they possess; may transfer and convey its value wherever it suits them, without, on this account, being liable to the exaction by the United States of any kind of contribution, tax or impost. If the persons here treated of prefer to remain in the territories they now inhabit, they may preserve the title and rights of Mexican citizens, or at once acquire the title and rights of citizens of the United States, if they wish it. But in all cases they and their property shall enjoy the most ample security.

11th. All the grants of lands made by Mexican authorities, in territories belonging heretofore to the republic, and by this treaty to be for the future within the limits of the United States, shall be valid and permanent, and shall be sustained and guarded forever by the government of the said United States.

12th. The republic of the United States promises solemnly not to permit hereafter the annexation of any district or territory comprehended in the limits which by the present treaty are assigned to the Mexican republic. This solemn agreement has the character of a condition from the territorial cessions which Mexico now makes to the republic of North America.

13th. All goods now in the Mexican ports occupied by the North American troops, shall pay the duties established by the tariff of the Mexican republic, provided they have not before paid duties to that republic; but they shall not incur the penalty of confiscation.

14th. The government of the United States shall satisfy, according to just terms, the claims of Mexican citizens for the injury sustained in their interests by the North American troops.

The present treaty shall be ratified, &c., &c.

Mr. Trist to the Mexican Commissioners.

TACUBAYA, September 7, 1847.

The undersigned, commissioner of the United States of America, has the honor to acknowledge the receipt of the note, under date

of yesterday, from their excellencies the commissioners on the part of Mexico, accompanying the counter projet which they had been instructed to present.

The authority with which he is clothed being limited, so far as regards the boundary to be established between the two republics, to the conclusion of a treaty upon the basis of the ultimatum presented by him on the 2d instant, the undersigned finds himself, as was stated by him at their conference on yesterday, under the painful necessity of recognizing the absolute irreconcilableness which exists between the views of the two governments in this regard, and of considering these final instructions to their excellencies as putting an end to the negotiation which he has had the honor to conduct with them, and which has left on his mind a deep and lasting impression of the sincerity with which his earnest wish was reciprocated, that the restoration of peace might be the result.

Debarred as he is from discussing with them the question of boundary, beyond the point now reached, he must limit himself to some remarks in reply to the observations to which his attention is invited, and which he is requested to consider fully before coming to a definite determination with respect to their propositions.

Acknowledging their title to his utmost attention, not only on account of the gravity of the subject, but also because of the candor and frankness displayed throughout their intercourse, on the part of those by whom these observations are submitted, the undersigned, after considering them in the same spirit, finds himself compelled to say, that, plausible as they may at first glance seem, they indicate to his mind an altogether erroneous view of the positions in which the two countries stand towards each other, and of the general question now pending between them.

It is perfectly true, as stated by their excellencies, that "the war now existing commenced with reference to the territory of the State of Texas," and it is likewise true, that the title by which this territory is claimed by the United States (or, to speak more properly, now constitutes an integral portion of the United States,) consists in "the act of Texas," (concurrently with that of the American Congress) "whereby she became incorporated into the Union," as one of its sovereign members. But this is very far from warranting the conclusion which appears to their excellencies to flow from it, and on which are rested the reasonableness and justice of the propositions, which they have been instructed to make on the part of the Mexican government.

This conclusion is, that Mexico, by consenting, as she now offers to do, upon being properly indemnified, to accede to the claim of the United States to Texas, removes the cause of the war; and that, consequently, all title whereby it may be further prosecuted being now wanting, it should at once cease. Pursuing the same line of reasoning, it is further urged, with reference to the remainder of the territory comprehended within the boundary described in the projet presented by the undersigned, that no right thereto having heretofore been alleged by the United States, consequently the only title by which it could be acquired must rest either upon conquest

or upon purchase, with respect to the former of which titles, the confidence is expressed that it would be regarded with reprobation by the United States; whilst, in regard to the latter, it is remarked that it would be repugnant to every idea of justice, to wage war against a nation for no other reason than her refusal to sell territory which a neighbor desired to purchase.

To perceive clearly the utter falacy of this whole view of the subject, it is necessary only to advert to a few leading facts belonging to the series of events, out of which has grown the state of things now existing between the two countries.

Composed chiefly of emigrants from the United States, who had been invited thither by Mexico under the guarantees for the security of life, liberty, and property afforded by the constitution of 1824—a constitution modelled upon that of their native land—the people of Texas, after the lapse of a few years, found themselves presented with the alternative of taking up arms in defence of their dearest rights, or submitting to the military usurpation and despotism by which the organic law of their adopted country had been subverted and replaced. As could not but be foreseen by all persons not entirely unacquainted with the national character formed under the influences of English principles of government, and of the developments which these have received on our side of the Atlantic, the former of these alternatives was the choice of the Texans. They resisted, and their resistance proved successful. Thus arose the republic of Texas.

After establishing a government, the security afforded by which to all that civilized man holds dear, presented the most striking contrast to the consequences of the subversion of the Mexican constitution, as exhibited throughout the rest of the country, for whose happiness it had been established; after obtaining from the principal powers of the earth a recognition as one of the great family of nations, and after maintaining this position, through a period and under circumstances rendering manifest to the world that it was not to be shaken by Mexico, the new republic sought and obtained admission among the United States of America, as a member of their Union.

By this event she became entitled to the protection of the United States from invasion: their appropriate organ for the discharge of this obligation being the Executive of the general government, as the functionary charged with the control and direction of their defensive force. But, of what consisted the territory of this new member of the Union, which, from the moment of her admission as such, it had thus become the duty of the President of the United States to employ the forces placed by the constitution under his direction in protecting from invasion? In other words, where were her boundaries? To protect a State from invasion, means, to prevent the occupation of any portion of her territory by the armed forces of any other State or nation. This obligation, therefore, manifestly implies the existence of limits to her territory—limits, the crossing of which by a foreign force, constitutes an invasion. It necessarily results, from the very nature of things, that this duty of

protection can have no existence, except concurrently with the existence of such limits. When considered with reference to this obligation, a territory without determinate limits is a contradiction in terms. It is of the very essence of the obligation, that the portion of the earth's surface to which it attaches shall be definite and determinate; it being otherwise impossible to say when it is invaded, and when it is not invaded.

Where, then, were the limits of this new member of the Union? As defined and asserted by herself, the territory of Texas extended to the Rio Bravo. Her right to insist on this boundary was equally good, and identically the same, in all respects, as the right of Mexico to insist upon any other line of separation; and this right, agreeably to a principle of international law, too well established to admit of dispute or doubt, existed independently of the question as to what might or might not have been the true limits of Texas, whilst constituting a part of the Mexican republic. With reference to that period, their excellencies the commissioners assert, as "a matter of absolute certainty, that the country comprehended between the Nueces and the Bravo had never formed part of the State of Texas." But, supposing this to be true, it would not in any way affect the right of the Texan people, at the close of the war into which they had been forced as above stated, to insist upon such boundary as they might deem as essential to their future security against the spirit manifested towards them by the government whose usurped power they had so successfully defended themselves against; whilst, not content with subverting the authority of the constitution, it had sought to stifle and to extinguish forever, within the bounds of Texas especially, not only every spark of liberty, but every one of those great elements of civilization which that constitution was designed to foster and to develop. In a word, the republic of Texas and the republic of Mexico had been for many years at war; and, as the condition to the cessation of this war, either party had the same right, identically, to demand and to insist upon the establishment of such boundary as in her judgment was the just and proper one. If Mexico, on her part, could assert as a fundamental axiom the one now put forward by her commissioners, that "no nation can rightfully be required, nor should any nation ever consent, to relinquish her natural frontier," and from this axiom deduce her right to insist upon possessing the territory between the Nueces and the Bravo, on the ground of the insufficiency of the latter river alone for her security, either in a military or in a commercial point of view, and that the river and the territory together were indispensable to her for this purpose; if this right appertained to Mexico, Texas, on the other hand, had an equal right to appeal to the same principle, and to point to the manifest self-contradiction involved in the deduction drawn from it; which, on the ground that the whole of a broad and angry torrent was insufficient for her security, gave to Mexico a wide extent of territory, as an additional bulwark, whilst it required that Texas should content herself with half the width of a comparatively narrow and sluggish stream.

Such, then, was the position of Texas, with regard to her boundary towards Mexico, at the time when she became admitted into the Union. According to the well settled doctrine of international law upon this subject, the line of demarcation between the two republics had become obliterated by the war; and the consent of both had become necessary to the re-establishment of that line, or the establishment of any other, as their common boundary. This being the state of things, Texas, asserting her right and her determination to insist upon the lower part of the Rio Bravo as a part of that boundary, obtained admission into the North American sisterhood. With respect to this point, however, the American Congress, through a scrupulous regard for any right which Mexico might have, or might suppose herself to have, to any portion of the territory embraced within the asserted limits of Texas, reserved to the United States the right to determine those limits by means of friendly negotiation with Mexico; this being, as has already been observed, the only way in which an international boundary, in the proper sense of the term, can be ascertained; for, although one of two conterminous nations may select for itself, and may maintain by force the line which is to separate her territory from that of the other, yet a boundary between them can never be said to exist, except in virtue of the consent and recognition of both. Without such an agreement between them, neither of two nations whose territories touch each other can be said to have a boundary.

Such was the state of the case between Texas and Mexico at the time of the admission of the former into the American Union; and such it necessarily continued to be after that event, with this single difference—that the question between Mexico and Texas had now become one between Mexico and the United States. No agreement or understanding had yet taken place between them—the Mexican government, on the contrary, still claiming to consider Texas as a rebellious province, over which it intended to re-establish its authority—it was, in the nature of things, impossible that the boundaries of this new member of the American Union should have become determined.

From this state of things resulted the obligation—equally imperative upon the United States and upon Mexico—to effect, as speedily as possible, that settlement of boundary which, by events now past recall, and manifestly to the whole world constituting “a fact fulfilled,” had become a matter of absolute necessity between these two parties; as that, by virtue of which alone, either of the two could exercise authority over any portion of the country lying between the Rio Bravo and the Sabine, without the certainty of collision between the equal right and the equal obligation of each to defend its territory from invasion; for, as has already been stated, whilst Texas, on the one hand, asserted that these two rivers constituted her boundaries, the Mexican government, on the other hand, persisted in denying the separate existence of Texas as an independent State, and claimed the whole country embraced between those streams as still constituting a part of Mexico. Moreover, even on the supposition that the pretensions of the

latter had been less irreconcilable with the fixed facts of the independence of Texas, and her incorporation into the Union; and if these fixed facts had received from Mexico the acknowledgment to which they were entitled from human reason, still, even on this supposition, the necessity for a settlement of the boundary would have been no less absolute than it has been shown that it was; for, until ascertained by a compact or agreement, definitive or provisional, between the United States and Mexico, the boundary between the two republics, when considered by the United States with reference to the national obligation to protect their territory from invasion, could be none other than that very boundary which had been asserted by Texas herself. From the very nature of things, it could not be otherwise: because, independently of the truth that a boundary between two conterminous nations cannot exist, except in virtue of their mutual consent, and that, consequently, it was impossible that this boundary should be determined by the United States alone—independently of this truth, the necessity here referred to resulted from the care taken by the United States, whilst in the very act of admitting Texas, to respect the territorial rights of Mexico—not, indeed, by denying, as her government persisting in doing, the existence of Texas as a sovereign and independent republic, but by recognizing the impossibility that, by the mere act of Texas alone, the line of demarcation between herself and Mexico should be determined. From this manifestation of regard for the rights of Mexico, it resulted that the Executive of the United States, their constitutional organ for fulfilling the obligation of protecting the country from invasion, was placed under the necessity either to disregard that obligation entirely with respect to Texas, or to consider it as co-extensive with the limits which she had herself asserted. Between these alternatives, no medium presented itself, except that the Executive should assume to decide what the proper limits of Texas were—a thing impossible on its part, without an usurpation of power, no less futile than flagrant; for, whilst on the one hand it could not but leave the question of boundary precisely where it stood before, it would have involved at once a violation of the rights of Texas, a violation of the rights of Mexico, and a defiance of the authority of the legislative power of the Union; the determination of these limits having, by that authority, been referred to the concurrent action of the treaty-making power of the United States and of Mexico. This flagrant and three-fold usurpation, on the part of one branch of the government of the United States, constituted the only possible middle course between the alternatives above stated. And this state of things must continue, so long as the boundary of the newly admitted member of the Union should not be ascertained, either definitively or provisionally, by a treaty or convention between the American and the Mexican governments.

Thus stood the case between the two republics. Here was a juncture in human affairs, presenting as a fixed fact—a fact which, manifestly to the whole world, has passed beyond human control—the absolute necessity of an immediate understanding and agreement.

between the two governments; whereby, if not definitively, at least provisionally, that boundary should be ascertained, by means of which alone their respective fields of duty could be distinguished—by means of which alone a collision, in the discharge of those duties, could be avoided. The existence of this necessity, and the fact that it had taken its place among those things which have passed beyond human control, were manifest to the whole world. And how was it met by Mexico? By a refusal to acknowledge it. To endeavors the most earnest, the most respectful, the most conciliatory, the most patient and persevering, to induce her to listen, she responded by a refusal to hear. The admission of Texas into the Union was denounced by the Mexican government, in terms that the undersigned will not recall, as an act of war; and its unalterable determination proclaimed to wrest Texas, the whole of Texas, from the United States, by force of arms. Armies were embodied, and the resources of the country exhausted in preparations to carry this threat into execution; and, finally, the troops of the United States were attacked, and American blood was shed within that territory, which, as has been demonstrated, nothing but the amicable understanding which it had so earnestly but so vainly sought, could have absolved the government of the United States from the necessity of considering as a part of the country which it is under the most imperious and the most solemn of obligations to protect from invasion.

Thus did this war begin. It was commenced, not by the United States to acquire Texas, but by Mexico to subjugate Texas, after her national existence had become irrevocably blended and identified with that of the United States. This was the avowed purpose for which Mexico's "army of the north" was embodied and marched, and for which "the campaign of Texas" was opened. The ulterior destination of that army, as proclaimed by the press of the Mexican capital, echoing and re-echoing the manifestoes and the orders poured forth by the government, was, not the southern shore of the Rio Bravo, but the western shore of the Sabine. There was no mention then of the distinction between the territory proper to the State of Texas, and the territory proper to the State of Tamaulipas; nor of the "zone between the left bank of the Bravo and the right bank of the Nueces;" nor of the latter river as constituting a boundary of any sort, or for any purpose. The only limit to Mexican territory, recognized in the manifestoes referred to, was the Sabine; and upon the bank of that river was the army of Mexico to plant her flag.

Thus did the war begin. Had no such purpose as the subjugation of Texas been then avowed, or been then entertained, by the Mexican government; had the "army of the north" been formed solely for defensive purposes; even then, on this supposition, so highly favorable to Mexico, the cause of the war could be found in but one thing—the pertinacious refusal of her government to recognize the necessity which had arisen for that concurrent action of the two governments, by which alone either could be enabled to distinguish the territory which it was under the obligation to de-

fend as its own, from that which it was bound to respect as its neighbor's.

When considered in connexion with the course pursued by the Mexican government, in refusing to recognize this necessity for an understanding, and for conjoint action with that of the United States, the mere presence of the force of the former upon the left bank of the Bravo, or any where within the asserted limits of Texas, constituted an invasion. Independently of any attack by those forces upon the troops of the United States, their crossing the Bravo amounted of itself to active war. This invasion was repelled; and the war, thus forced upon the United States, became soon a war of invasion on their part; a war of invasion, but not of aggression; for they had remained passive until struck, and until the pertinacity of the Mexican government in maintaining its attitude of hostility, had made it manifest that no good consequences could result from further forbearance, and had precluded all doubt that the only hope of the restoration of peace between the two countries rested upon a vigorous prosecution of the war by the party assailed.

The results by which it has thus far been attended, it were needless here to dwell upon. It suffices to say, that the seaports of Mexico, together with the chief cities and strong places of a very considerable portion of her territory, are now in the possession of the forces of the United States; and this, under circumstances affording no prospect whatever that their hold upon them can be made to loosen. These are the circumstances under which the desire for peace, so steadfastly cherished and so constantly manifested by the United States, is now again repeated. In making this offer, upon the condition set forth in the projet submitted by the undersigned, the United States occupy a position very different from that supposed in the observations which have elicited these remarks.

In proposing to Mexico to agree to the establishment of the boundary defined in that projet, they do not present themselves as purchasers attempting to coerce a neighbor to the sale of her territory. They do, it is true, rely on the title by conquest; but not in the sense wherein alone this title has any odium attached to it, even according to the highest known standard of international morality. The title by conquest—understanding by conquest the forcible wresting of a country from its rightful owner without just and sufficient cause, and through the mere desire to possess it—this title by conquest is one which the Mexican government does nothing more than justice to the United States in supposing that it finds no favor in their eyes; but, if by conquest, be meant the retention of territory which a neighbor, by forcing you into a war, has compelled you to occupy, after every possible means has been exhausted by you to preserve peace and to avoid that necessity; if this be the sense attached to the words, then the title, by conquest, is one which any member of the great family of nations may appeal to in the certainty that it will be pronounced good by the tribunal to which they are alike amenable. From the judgment of that tribunal, upon the terms now offered to Mexico, the United States have nothing to apprehend. In the eyes of a candid world,

when the excitement and the misconceptions of the hour shall have passed away, their conduct will appear in its true light; and the erroneousness of the view taken by Mexico of the position which they occupy towards her will be manifest. Instead of the covetous neighbor, seeking to extort from the weakness of another the sale of territory which she is averse to part with, they will be seen to have realized the character of a generous conquerer, freely proffering to restore possessions of inestimable value, acquired at a vast expenditure of blood and treasure in the prosecution of a war into which he had been most reluctantly compelled; and who, whilst insisting, with respect to a portion of his conquests, upon his right to retain them, sought at once to reconcile the exercise of this right with the interests of the other party, and to render it as little grating as possible to his feelings by connecting with it an offer of that pecuniary relief which his exhausted condition so loudly called for, and which everything conspired to render vastly more important to his welfare than the recovery of remote and uninhabited districts, the loss of which would be as little felt as had been the merely nominal and purely sterile authority previously exercised over them.

In closing this correspondence, the undersigned, whilst most painfully alive to the consequences which cannot but attend the failure of the purpose for which they were placed in communication, experiences unfeigned satisfaction in giving utterance to the sentiments of personal esteem and confidence with which he has been inspired by the eminent citizens of Mexico who have acted as her organs in the negotiation. Barren, as unhappily it has proved in regard to the great object which has occupied them, it has at least served to impress deeply on his mind the conviction that, had the course of the Mexican government upon the Texas question been directed by the enlightened patriotism which this republic possesses among her sons, reason and candor and good feeling would have asserted their rightful predominance over the elements to whose baleful sway the calamities of the war are due.

N. P. TRIST.

To their Excellencies DON JOSE J. HERRERA, DON BERNARDO COUTO, DON IGNACIO DE MORO Y VILLAMIL, and DON MIGUEL ATRISTAIN, *Commissioners Plenipotentiary of the Mexican Republic.*

